

Selling a home

There are various ways to sell your home. Some people may sell property without appointing an agent, but this requires some specialised knowledge and familiarity with the process. Most people hire an agent to negotiate a sale or to manage an auction. Research the alternatives thoroughly and talk to other people about their experiences.

Dealing with an agent

Real estate agents, sales representatives and auctioneers must be registered and carry a photographic registration card. Make sure the agent that you choose is registered.

Before a real estate agent can sell your property, you must sign a contract with them called a sales agency agreement. This agreement is a legally binding contract and it is important that you read and understand it.

The sales agency agreement will set out:

- the duration of the agreement
- how it can be terminated
- the commission rate (that is, the payment to the agent for selling your house)
- the strategy for promoting and selling your property and the associated fees
- the estimated sale price that the agent has quoted you
- any benefit that the agent will receive as a result of marketing your property.

The agent must also give you details of recent sales of similar properties and any other information that the agent will use in working out their estimate of the selling price.

Make sure you are given a copy of the sales agency agreement and a guide (Form R1) which explains your rights and obligations.

Your agent and their sales representatives are not allowed to receive a “beneficial interest” in the property. They will also be deemed to receive a beneficial interest if an associate buys the property. If a prohibited party wants to purchase your property then they must apply to the Commissioner for Consumer Affairs. An exemption will only be granted in exceptional circumstances.

Open inspections

Advertising will include the times your house is open for inspection. This will generally be for 30 to 45 minutes once a week. Buyers may wish to arrange an alternative inspection appointment. It is important to present your home in the best way possible and also that you lock away your valuables.

Form 1

The buyer must be provided with a **vendor's statement (Form 1)** which gives important information such as mortgages on the property, zoning, rates and charges and anything that will limit how the buyer can use or renovate the property. (These may be called easements, caveats, covenants or encumbrances).

If the property is to be sold by auction the agent or auctioneer must make the Form 1 available at the auctioneer or agent's place of business for three business days immediately prior to the auction and also at the place of the auction for 30 minutes immediately before the auction. The agent must also take reasonable steps to give prospective purchasers notice of the times and places at which the Form 1 can be inspected (e.g. by newspaper advertisement, in promotional material for the sale or on the signboard advertising the sale).

For private treaty sales the Form 1 statement must be provided to the buyer at least 10 clear days before settlement.

Selling by private treaty

You may choose to offer the property for sale at a price or within a price range. You can set a price and interested buyers can negotiate with you, via your agent (if you have one). As part of the negotiation process the buyer will make an offer in writing for you to consider.

The buyers offer may be subject to certain conditions (e.g. obtaining satisfactory finance, selling their existing home or a satisfactory building inspection). It may be in your interest to accept a slightly lower offer if the contract is not subject to any conditions.

A buyer is entitled to a cooling off period of two clear business days during which they can withdraw from the sale. The cooling off period starts after both you and the buyer have signed a contract and the buyer has received the Form 1.



You should discuss with your agent which of your appliances, furniture and other personal effects you do not want included in the sale. Generally, items such as hard-wired kitchen appliances and curtains and blinds are included in the sale. Make sure that the agent excludes your identified items from the sale.

Selling by auction

For auction sales, you must specify the selling price that is acceptable to you in the sales agency agreement.

Before you sell at auction you will need to set a **reserve** price in writing. The reserve price cannot be more than 110% of the price you stated in the sales agency agreement.

You cannot increase your acceptable selling price in the sales agency agreement.

The agent must keep written records of the reserve and must record all bids made throughout the auction process.

You are allowed up to three **vendor bids** at the auction. They must be announced by the auctioneer as a "vendor bid", and they must be less than the reserve price. A vendor bid indicates that the bids haven't yet reached your reserve.

If the property reaches the reserve price it will be sold to the highest bidder. The successful bidder must sign the sale contract and pay a deposit on the spot. There is no cooling-off for anyone who buys a property at auction.

If the property does not reach the reserve price it is 'passed in'. Usually the agent will try to negotiate with the highest bidder after the auction. If a sale is achieved in this way on the day of the auction, the purchaser will not have the right to cool off.

Settlement

Your contract with the purchaser will include a date for settlement, which is usually four to six weeks after the contract is signed by both parties. The sale is finalised at settlement when all checks have been made, the title and transfer documents are exchanged, and the balance of the purchase price has been paid. The settlement process is conducted between your legal and financial representatives and those of the purchaser.

Before settlement, both you and the purchaser should retain a conveyancer or solicitor to arrange settlement and to provide advice about your rights and responsibilities in relation to the contract and Form 1.

Your conveyancer will advise you once settlement is completed.

Contact us

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Advice in your language

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